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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SHANKAR NATARAJAN

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02/24/2003

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EXAMINER

LEVITAN, DMITRY

ART UNIT

PAPER NUMBER

2662

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/342,742

Applicant(s)

NATARAJAN ET AL.

Examiner

Dmitry Levitan

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,10-19 and 40-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,10-19 and 40-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Amendment filed on January 30, 2003 has been entered. Claims 1-6, 10-19, 40-53 remain pending.

***Specification***

1. The attempt to incorporate subject matter into this application by reference to US Patent Applications on pages 1 and 2 is improper because the applications are identified by attorney docket numbers.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 10-18, 40-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe (US 6,108,304) in view of Hanson (US 5,633,861).

Abe teaches most of claims 1-6, 12, 14, 40-53 limitations:

of method, system and computer program for providing dynamic feedback control of network elements in a data network (edge nodes EA, EB, EC, ED and network management equipment 200 on Fig. 1 and col. 4 lines 63-68; col. 5 lines 1-17), the data network including a plurality of network elements (EA, EB, EC, ED on Fig. 1), each of said elements having a plurality operating parameters associated therewith (bandwidth, buffer status information on col. 10 lines 23-45), said operating parameters being related to at least one control parameter (calculated available bandwidth col. 7 lines 32-60) of said element, said element comprising:

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receiving information (measured bandwidth col. 6 lines 5-19) relating to an operation of a first subset (edge nodes on Fig.1) of the plurality of network elements;

providing at least portion of said received information (measured bandwidth) to at least one analysis entity (network management equipment 200 on Fig. 1 and col. 6 lines 8-19) for analyzing said portion of received data and calculating updated control information (available bandwidth col. 6 lines 8-19) based on such analysis;

receiving the updated control information calculated by the analysis entity (col. 7 lines 51-60);

and

providing the updated control information to at least one of the network elements (col. 7 lines 51-60).

Regarding claims 40 and 47, Abe teaches processors with memory (col. 5 lines 42-58) and computer program to implement the method (flowchart Fig. 21 and col. 7 lines 32-60).

Regarding claims 10,11, 15-18, Abe teaches a second subset of the plurality of ATM or Frame Relay (col. 5 lines 14-17) network elements (relay nodes N1, N2 and N3 on Fig. 1) controlled by the same network management equipment 200, receiving control data in response of data congestion of the first network elements (edge nodes on Fig. 1) as shown on Fig. 15 and 23 (col. 8 lines 5-40).

Regarding claim 13, Abe teaches the method with periodically updating receive (monitor RM cells col. 10 lines 63-68 and col. 11 lines 1-15) information on available bandwidth.

Abe does not teach control information that specifies a limit on the operation, excess information rate value and committed burst size value of a network element.

Hanson teaches control information that specifies a limit on the operation, excess information rate value and committed burst size value of a network element (channel utilization factor CUF on Fig. 6 and col. 5 lines 63-67, col. 6 lines 1-8, col. 7 lines 65-67, col. 8 lines 1-67).

It would be obvious to one of ordinary skills in the art at the time the invention was made to add control information that specifies a limit on the operation, excess information rate value and committed burst size value of a network element of Hanson to the system of Abe to improve the system handling different customers requirements.

4. Claim 19 is rejected under 35 U.S.C. as being unpatentable over Abe in view of Hanson in further view of Desai (US 5,781,703).

Abe and Hanson teach all claim limitations specified in claim 1. Abe and Hanson do not teach using plurality of network controllers. Desai teaches multiple network controllers (data servers 14 on Fig. 1 and col. 3 lines 2-30). It would be obvious to one of ordinary skills in the art at the time the invention was made to use multiple controllers, as suggested by Desai to the method of Abe and Hanson to improve reliability of the method.

### ***Response to Arguments***

5. Applicant's arguments filed January 30 2003 have been fully considered but they are not persuasive.

On page 4 of the Response, Applicant argues that Abe does not teach providing received information to an analysis entity, calculating control information based on the analysis.

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Examiner respectfully disagrees.

Abe teaches nodes measure dynamically changing bandwidth, providing it to the network management equipment, the management equipment calculating an available bandwidth for each route and distributing this control information to each node (col. 5 lines 59-67 and col. 6 lines 1-4).

On page 4 of the Response, Applicant argues that Hanson does not teach providing a network element with updated control information based on network operation.

Examiner respectfully disagrees.

Abe teaches providing a network element with updated control information based on network operation, Hanson teaches control information that specifies a limit on the operation, excess information rate value and committed burst size value of a network element (channel utilization factor CUF on Fig. 6 and col. 5 lines 63-67, col. 6 lines 1-8, col. 7 lines 65-67, col. 8 lines 1-67).

On page 5 of the Response, Applicant argues that Hanson does not teach control information as a committed information rate value, excess information rate value, a burst size value and an excess burst size value.

Examiner respectfully disagrees.

Hanson teaches committed information rate and excess information rate (col. 8 lines 1-14) and burst size and excess values (Fig. 6 and col. 7 lines 57-64).

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Examiner therefore believes that the cited references meet all the claims limitations and the rejection is proper.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Levitan whose telephone number is 703-305-4384. The examiner can normally be reached on 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 703-305-4744. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Dmitry Levitan  
Patent Examiner.  
February 14, 2003

